

Economic Development, Real Estate Commission, LR 17:649, (July 1991), amended by the Department of Economic Development, Real Estate Commission, LR 19:171 (February 1993).

Chapter 25. Advertising

§2501. Name and Telephone Number of Listing Broker Required

A. All advertising by any licensee shall include the identity of the listing broker or firm through use of the identical name under which the license is issued or the trade name registered by the listing broker or firm, and may also include any registered symbol or registered trademark.

B. All advertisements, including those placed in newspaper ads and real estate related publications, shall include the telephone number of the listing broker.

C. The names and telephone numbers of associate brokers and salespersons may appear in the advertising of the listing broker; however, they must be displayed in a manner distinctively subordinate to the listing brokers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:277 (September 1976), amended LR 2:452 (December 1976), LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989).

§2503. Owner Authorization

A. No broker or licensee sponsored by said broker shall in any way advertise property belonging to other persons as being for sale, or rent or place a sign on any such property offering the property for sale or rent without first obtaining the written authorization to do so by all owners of the property or their authorized attorney in fact.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:277 (September 1976), amended LR 2:452 (December 1976), LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989).

§2505. Representative Advertising

A. All advertising shall be an accurate representation of the property advertised. No broker or licensee sponsored by said broker shall use advertising which is misleading or inaccurate or in any way misrepresents any property, terms, value, policies, or services of the business conducted, or include any trade name in any real estate organization or association of which the licensee is not a member.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:277 (September 1976),

amended LR 2:452 (December 1976), LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989).

§2507. Advertisements of Residential Property

A. All printed advertisements for the sale or lease of residential real estate shall indicate the month and year the advertisement is printed, published, or distributed. Advertisements printed or published in newspapers, real estate trade publications and commercial magazines and brochures bearing an issue or publication date will be considered in compliance with this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:277 (September 1976), amended LR 2:452 (December 1976), LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989).

§2509. Advertisements by Franchise Organizations

A. Any broker affiliated with a franchise organization must include both the franchise name and his own name in any advertising. All advertising, with the exception of standard yard signs, must disclose to the public that the real estate brokerage firm is independently owned and operated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:277 (September 1976), amended LR 2:452 (December 1976), LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989).

§2511. Agent Owner—Licensed Agent

A. A licensed broker or salesperson who offers property in which he owns any interest as being for sale or rent shall state in any advertising, and on any sign placed on the property, that he is a licensed real estate agent.

B. Any licensed broker or salesperson who advertises, or offers to purchase or rent property for his own full or partial interest shall state in any advertisement that he is a licensed real estate agent.

C. Including the terms "agent/owner" or "licensed agent" in any advertisement or on any sign shall be sufficient to satisfy this requirement.

D. This Section is not applicable to the sale, rental, or acquisition of property by licensees under a contractual agreement with a licensed Louisiana Real Estate Broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:277 (September 1976),

amended LR 2:452 (December 1976), LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989).

§2513. Appraisals

A. No licensee shall offer or advertise any appraisal service to the public in any manner which would create the impression of the licensee being a state certified real estate appraiser unless the licensee has been certified as such in accordance with R.S. 51:3406. Licensees who have not been certified as state certified real estate appraisers shall not describe or refer to any appraisal or other evaluation of real estate located in this state by the term "state certified."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:277 (September 1976), amended LR 2:452 (December 1976), LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989).

Chapter 27. Escrow and Trust Account

§2701. Sales Escrow Account

A. Each resident broker who accepts any deposit on behalf of a client in connection with the sale of real estate shall open and maintain a sales escrow checking account in a financial institution in the state of Louisiana. All sales escrow accounts shall be titled in the identical wording as stated on the broker's license and the wording "Sales Escrow Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this chapter, all deposits received by a broker in connection with the sale of real estate shall be deposited in this account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), LR 12:509 (August 1986), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17:1080 (November 1991).

§2703. Rental Trust Accounts

A. Each resident broker engaged in the collection of rental payments on behalf of clients shall open and maintain a rental trust checking account in a financial institution in the state of Louisiana. All rental trust accounts shall be titled in the identical wording as stated on the broker's license and the wording "Rental Trust Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this Chapter, all money collected as rental payments from or on behalf of clients shall be deposited into this account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17:1080 (November 1991).

§2704. Rental Deposit Account

A. Effective January 1, 1992, each resident broker engaged in the collection of rental security deposits in connection with property management activities on behalf of clients shall open a security deposit trust checking account in a financial institution in the state of Louisiana. All security deposit trust accounts shall be titled in the identical wording as stated on the broker's license and the wording "Security Deposit Trust Account" shall be imprinted on all checks and bank statements issued in connection with this account. Except as otherwise provided in this chapter, all money collected as rental security deposits from or on behalf of clients shall be deposited into this account.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 17:1080 (November 1991).

§2705. Account Affidavit

A. Upon the opening of any sales escrow checking account, rental trust checking account, or security deposit trust checking account a broker shall execute and submit to the Commission an affidavit attesting to the existence, location, type and account number of such account, and authorizing and empowering the Commission or its representatives to examine, inspect, and/or copy the records of the account. All such affidavits shall be submitted to and received by the Commission within 10 days following the opening of any such accounts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17:1080 (November 1991).

§2706. Nonresident Brokers

A. Each nonresident broker shall open and maintain sales escrow accounts, rental trust accounts and rental deposit accounts as specified for resident brokers. The accounts may be opened and maintained at a financial institution in the state of Louisiana or in a financial institution in the state in which they reside.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 17:1080 (November 1991).

§2707. Branch Office Accounts

A. If a broker opens a branch office in a parish other than the parish in which his main office is located, the broker may open an additional sales escrow account, rental trust account, or rental deposit account in the parish in which the branch office is located.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17:1080 (November 1991).

§2709. Additional Accounts

A. Where the interest of the principal parties to a particular transaction or series of transactions would be served thereby, and with the prior written consent of the principal parties, a broker may open an additional sales escrow checking account or rental trust checking account in any parish and deposit therein all monies received in trust on behalf of those parties pursuant to that particular transaction or series of transactions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989).

§2711. Non-Interest Bearing Checking Accounts

A. Every sales escrow checking account, rental trust checking account or security deposit trust checking account shall be opened as a non-interest bearing checking account unless all parties having an interest in the funds to be deposited therein have agreed otherwise in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), LR 12:827 (December 1986), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17:1080 (November 1991).

§2713. Personal Funds in Escrow and Trust Accounts

A. A broker may deposit and keep a sum not to exceed \$500 in each sales escrow account, rental trust account, and security deposit trust account from his personal funds, which sum shall be specifically identified and deposited to cover bank service charges relating to the accounts.

B. A broker may, in connection with property management activities, deposit personal funds in excess of \$500 into a rental trust account for the temporary, limited and specific purpose of enabling the broker to satisfy financial obligations for or on behalf of clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17:1081 (November 1991).

§2715. Withdrawal

A. No monies received and deposited into an escrow account or rental trust account shall be withdrawn for any purposes except:

1. upon mutual written consent of all parties having an interest in the funds;
2. upon Commission order;
3. upon court order;
4. for the purpose of depositing monies into the registry of the court in a concursus proceeding;
5. for the purposes of depositing the funds with the Commission pursuant to Chapter 28;
6. upon the mutual written agreement by all parties for the purposes of refunding a deposit to a principal in a real estate transaction for which the funds were received by the broker;
7. to cover the payment of service charges on sales escrow checking accounts or rental trust checking accounts, with such payment being made from funds deposited into the account by the broker; and
8. upon approval by the Commission in connection with the sale or acquisition of a licensed entity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17:1081 (November 1991).

§2717. Deposits

A. Any money received as a deposit in a transaction involving the sale of real estate shall be deposited into the sales escrow checking account of the listing broker unless all parties having an interest in the funds have agreed otherwise in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), LR 12:509 (August 1986), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989).

§2719. Account Closing

A. No sales escrow checking account, rental trust checking account, or security deposit account may be closed until such time as all deposits therein have been properly disbursed according to law. Every broker shall notify the Commission in writing of the closing of any sales escrow account, rental trust account or security deposit account within 10 days following the date the account is closed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 9:317 (May 1983), LR 10:874 (November 1984), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17:1081 (November 1991).

§2721. Maintaining Accounts

A. Upon revocation, suspension or lapse of his license for any reason, or upon bankruptcy, a broker shall continue and maintain his sales escrow checking accounts and rental trust checking accounts until such time as all deposits therein have been properly disbursed according to law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989).

§2723. Corporations and Partnerships

A. Every licensed corporation or partnership shall open and maintain sales escrow accounts, rental trust accounts and rental security deposit accounts as specified for resident and nonresident brokers. All funds received in any real estate transaction conducted by the corporation or partnership as a licensee shall be deposited into these accounts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17:1081 (November 1991).

§2725. Transfer of Trust Funds on Sale or Acquisition of Agency

A. When a licensed agency is sold or otherwise acquired by another licensed agency the sponsoring or qualifying broker of the acquiring agency will advise the Commission in writing of the name of the agency acquired and the anticipated date of the transfer of trust funds. The letter notifying the Commission of the acquisition will specify the account numbers of the sales escrow accounts, rental trust accounts, or rental deposit

accounts from which the funds will be transferred and the account numbers of the accounts into which the funds will be deposited.

B. A letter jointly signed by the sponsoring or qualifying brokers of the agency being acquired and the acquiring agency requesting that approval be granted for the transfer of funds will accompany the notification to the Commission.

C. The transfer of funds shall not be accomplished until written approval has been granted by the Commission in accordance with §2715.A.8.

D. Within five working days following the transfer of funds a letter jointly signed by the sponsoring or qualifying brokers of the agency being acquired and the acquiring agency will be forwarded to the Commission certifying that all trust funds have been transferred. The letter will include the following:

1. a certification that all escrow account and rental trust account funds have been transferred to and received by the acquiring agency;
2. a certification that supporting documents for all trust funds have been delivered to and received by the acquiring agency;
3. a listing of all escrow or rental trust accounts from which a transfer was made and the amount of funds transferred from each account;
4. a listing of all escrow or rental trust accounts into which funds were deposited and the amount of funds deposited into each account.

E. The sponsoring or qualifying broker of the agency being acquired will close the escrow accounts and rental trust accounts from which the funds were transferred within 10 days following the transfer of funds and advise the Commission in writing when such action has been completed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 2:453 (December 1976), amended LR 3:398 (October 1977), LR 4:479 (December 1978), LR 9:317 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989), LR 17:1081 (November 1991).

§2727. Change of Licensing Status

A. An individual real estate broker who elects to become exclusively affiliated with a sponsoring broker, and an active broker transferring to an inactive status, shall continue to maintain their sales escrow accounts and rental trust escrow accounts until such time as all deposits therein have been properly disbursed according to law. As of the effective date of relationship with a sponsoring broker, or transfer to inactive status, no trust funds shall be placed in the accounts. The transferring broker shall advise the Commission in writing within five working days of the effective date of the transfer to the new status of the amount of trust funds in each escrow

account maintained, and the approximate date each account will be closed.

B. A currently licensed inactive broker who desires to transfer to active status as an individual real estate broker shall open a sales escrow account as required by this Chapter and submit an account affidavit to the Commission along with the request for transfer to active status. The Commission shall not effect the change of status until this requirement has been satisfied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989).

Chapter 28. Disbursement of Escrow Deposits

§2801. Escrow Disputes

A. When a broker determines or has knowledge that a dispute exists as to the ownership or entitlement of a deposit or funds held in a sales escrow account, as a result of a real estate sales transaction, it shall be the obligation of the broker to immediately notify in writing all of the parties involved of the dispute, and within 90 days of the determination or knowledge that such a dispute exists, it shall be the obligation of the broker holding the funds to one of the following:

1. release the deposit funds upon the written and mutual consent of all of the parties involved;
2. through a concursus proceeding, deposit the funds into the registry of any court of competent jurisdiction and proper venue;
3. deposit the funds including original promissory notes, with the Louisiana Real Estate Commission along with a request for an escrow disbursement order, which request shall include the names and last known addresses of the principals to the agreement, a copy of the purchase agreement, and copies of any other documents which may have some bearing on the dispute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 12:828 (December 1986), amended LR 14:9 (January 1988), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989).

§2803. Escrow Disbursement Order

A. The Louisiana Real Estate Commission upon receipt of a request for an escrow disbursement order:

1. shall immediately cause the funds accompanying said request to be deposited in an interest bearing escrow account pending final disposition;
2. may commence an investigation by its staff of the dispute;

3. may, upon completion of an investigation, consider the investigative findings and at a regular or special meeting issue an escrow disbursement order providing for the disposition and allocation of funds which are being held in escrow and are in dispute;

4. may call an adjudicatory hearing before issuing an escrow disbursement order; or

5. may deposit the disputed funds into a concursus proceeding in any court of competent jurisdiction and proper venue.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 12:828 (December 1986), amended LR 14:9 (January 1988), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989).

Chapter 29. Change of Address

§2901. Reporting

A. Every licensee and timeshare registrant shall report any changes in the address or telephone number of his business or residence to the Commission in writing within 10 days of the change.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 3:399 (October 1977), amended LR 4:480 (December 1978), LR 9:318 (May 1983), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989).

Chapter 31. Compensation

§3101. Full Knowledge

A. Licensees shall not accept compensation from more than one party without the full knowledge of all parties to the transaction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Real Estate Commission, LR 3:399 (October 1977), amended LR 4:480 (December 1978), amended by the Department of Economic Development, Real Estate Commission, LR 15:1057 (December 1989).

§3103. Sponsored Licensees

A. Associate brokers and salespersons shall not accept a commission or valuable consideration for the performance of any act herein specified or for performing any act relating thereto, from any person, except their sponsoring or qualifying broker.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1435.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Commission, LR 22:96